

REMARKS

Claims 27-44 are pending in this application.¹ Claims 37-44 have been canceled, without prejudice or admission. Claims 27 has been amended to more particularly specify that the claimed nucleic acids include RNA as well as DNA. Support for this amendment can be found in the specification as originally filed; e.g., on page 16, lines 10-11. In addition, claim 27 has also been amended to more clearly specify that the claimed nucleic acid comprises "one or more" heterologous sequences. No new matter has been introduced.

The above amendments and claim cancelations are made without admission, and without prejudice to Applicants' right to pursue any subject matter surrendered in other (e.g., continuing or other related) applications. Entry and consideration of these amendments are respectfully requested.

**A. The Prior Art Rejection under 35 U.S.C. § 102(e)
Should Be Withdrawn**

Claims 36-44 have been rejection under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,680,368 by Mosselman & Dijkema ("Mosselman"). In response, and without admission as to the propriety or correctness of this rejection, Applicants respectfully point out that rejected claims 36-44 have all been canceled, without prejudice or admission. The Office Action indicates that the remaining claims (i.e., claims 27-35) are allowable over the prior art. See, in the Office Action on page 5, paragraph 6.² It is therefore respectfully submitted that the rejection under 35 U.S.C. § 102(e) has been obviated, and should be withdrawn.

¹ The Office Action states, in Paragraph 2 on page 2, that claims 27-49 are pending in this application. However, Applicants respectfully point out that claims 45-61 were canceled without prejudice or admission in an Amendment dated July 2, 2002. Hence, only claims 27-44 are currently pending.

² This paragraph of the Office Action actually states that "[c]laims 27-28 and 30-35 are allowable over the prior art." However, claim 29 has been rejected only for indefiniteness under 35 U.S.C. § 112, second paragraph. It is therefore respectfully submitted that this claim is also allowable "over the prior art."

**B. The Indefiniteness Rejection under 35 U.S.C. § 112
Should Be Withdrawn**

Claims 29, 38 and 43 have been rejected as indefinite under the second paragraph of 35 U.S.C. § 112. In particular, the Office Action indicates that these claims specify a nucleic acid that is RNA, whereas the nucleotide sequence recited in their independent base claims is a DNA sequence.

At the outset, Applicants respectfully point out that rejected claims 28 and 43 have been canceled, without prejudice or admission. Independent claim 1 has been amended, also without admission or prejudice, to more clearly specify that the claimed nucleic acid may comprise “the sequence depicted in Figure 3, SEQ ID NO:1, *or an RNA sequence corresponding thereto.*” Hence, claim 1 as amended particularly specifies that the claimed nucleic acid may be, *e.g.*, either DNA or RNA. Rejected claim 29 depends directly from amended claim 1. It is therefore believed that the amendment to claim 1 renders claim 29 fully definite within the meaning of 35 U.S.C. § 112, second paragraph.

In view of the foregoing, Applicants respectfully request that the rejections for indefiniteness under 35 U.S.C. § 112, second paragraph, be withdrawn.

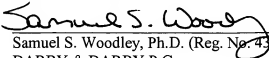
CONCLUSION

Applicants respectfully submit that the amendments and remarks presented here overcome and/or obviate each basis for rejection set forth in the Office Action. The

pending claims, as amended, are all believed to be in immediate condition for allowance. Accordingly, the withdrawal of all objections and rejections is respectfully requested. An allowance is earnestly sought.

Dated: June 8, 2006

Respectfully submitted,


Samuel S. Woodley, Ph.D. (Reg. No. 43,287)

DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(917) 286-2910

(212) 527-7701 (Fax)

Attorney For Applicant